REMARKS

In the Final Office Action dated January 30, 2003, the Examiner rejected claims 21-26, 30-35, and 39-42 under 35 U.S.C. § 102(e) as being anticipated by Heimsoth et al. (U.S. Patent No. 5,764,915) and allowed claims 27-29 and 36-38.

Based on the following arguments, Applicants respectfully traverse the Examiner's rejection of claims 21-26, 30-35, and 39-42 35 U.S.C. § 102(e).

I. The Rejection Under 35 U.S.C. § 102(e)

a. Heimsoth et al. does not teach each and every element of claims 21-26, 30-35, and 39-42

In order to properly anticipate Applicants' claimed invention under 35 U.S.C. § 102(e), each and every element of the claim in issue must be found, either expressly described or under principles of inherency, in a single prior art reference. Further, "[t]he identical invention must be shown in as complete detail as is contained in the...claim." See M.P.E.P. § 2131 (8th Ed., Aug. 2001), quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Finally, "[t]he elements must be arranged as required by the claim." M.P.E.P. § 2131 (8th Ed. 2001), p. 2100-69.

Heimsoth et al. teaches an object-oriented protocol interface that establishes communication paths between endpoints in a network. According to Heimsoth et al., the interface uses the same set of protocol class objects to develop several protocol layers.

The Examiner contends that the rebuilding process performed by the server taught by Heimsoth et al. (in column 29, lines 41-46 and column 31, lines 5-18) teaches deferring reconstruction of an object until requested by a program. Applicants respectfully submit that the Examiner is wrong as to this interpretation of the reference.

As argued by Applicants in the response filed September 5, 2003, the client-server communication process disclosed by Heimsoth et al. allows an AccessOP object to be sent to a server using RPC mechanisms. The server rebuilds the object using specific code (e.g., TNetworkOperation) and calls a specific method, which results in the creation of protocol layer objects. *See Heimsoth et al., col. 29, lines 41-49.* Further, Heimsoth et al. discloses a communication process that allows a server to rebuild an object sent to the server by a client using an RPC mechanism. Accordingly, Heimsoth et al. merely discloses communication processes that use conventional RPC mechanisms that include object rebuilding functions. Heimsoth et al. does not teach or suggest deferring the reconstruction of an object received in the form of a stream from an RPC mechanism.

In an attempt to address the above arguments, the Examiner asserts that "[c]laim 21 is indistinguishable from conventional systems since the claimed deferring process does not express a reason for deferring or a timetable for deferring. Claim 21 merely states that reconstruction of the object is deferred until a program requests the reconstruction." *See Office Action, page 4, lines 5-8.* Applicants respectfully submit that this reasoning is wrong for at least the following reasons.

To begin with, the Examiner merely concludes that claim 21 is "indistinguishable from conventional systems" without providing evidence to support the conclusion. That

is, if the Examiner's position is that there are conventional systems that teach deferring reconstruction of an object until requested to perform reconstruction by a program, the Examiner is required to present such evidence. Also, if the Examiner asserts that Heimsoth et al. is an indistinguishable "conventional system," the Examiner has not pointed to any portion of the reference to support that position. Rather, the Examiner relies on the same reasoning and citations presented in the Office Action dated June 6, 2003, without properly addressing Applicants' arguments stating otherwise.

Second, the Examiner's position that claim 21 is indistinguishable from conventional systems because the deferring process "does not express a reason for deferring or a timetable for deferring" is unsupported by U.S. patent law, rules, and the proper application of 35 U.S.C. § 102. There is no legal requirement for Applicants to claim a reason for performing a process step to avoid a rejection under 35 U.S.C. § 102(e). In order to properly anticipate Applicants' claimed invention under 35 U.S.C. § 102(e), each and every element of the claim in issue must be found, either expressly described or under principles of inherency, in a single prior art reference. In this case, the Examiner has presented no evidence of Heimsoth et al. teaching the deferral of object reconstruction. And, under the principles of inherency, the Examiner has not established that the prior art inherently teaches such processes.

Instead, the Examiner merely states that the claim is indistinguishable from the prior art because it does not claim some element or reason. This is an improper application of 35 U.S.C. § 102. The Examiner cannot rely on the position that a claim is anticipated by a prior art reference because that claim does not recite additional

elements or features. Instead, the Examiner must show where the prior art teaches the claimed recitations. The Examiner has not met this burden.

Because Heimsoth et al. does not teach each and every recitation of claim 21, and the Examiner has not provided evidence showing the recitations of claim 21, the rejection of this claim under 35 U.S.C. § 102(e) is unsupported by the prior art and should be withdrawn.

Claim 22 depends on claim 21. As explained, claim 21 is distinguishable from Heimsoth et al. Accordingly, the rejection of claim 22 is also unsupported by the prior art and should be withdrawn and the claim allowed.

Claims 23, 25, 30, 32, 34, 39 and 40 include recitations similar to claim 21. As explained, claim 21 is distinguishable from Heimsoth et al. Accordingly, the rejection of claims 23, 25, 30, 32, 39 and 40 are also unsupported by the prior art for at least the same reasons set forth in connection with claim 21 and should be withdrawn.

Claims 24, 26, 31, 33, and 35 depend on claims 23, 25, 30, 32, and 34, respectively. As explained, claims 23, 25, 30, 32, and 34 are distinguishable from Heimsoth et al. Accordingly, the rejection of claims 24, 26, 31, 33, and 35 are also unsupported by the prior art for at least the same reasons set forth in connection with claims 23, 25, and 30, and should be withdrawn.

Further, Heimsoth et al. does not disclose or even suggest, at least, an event listener that is configured to reconstruct an object by accessing program code identified in a stream. Therefore, the Examiner's position that the reference anticipates claim 41 is unsupported by the prior art and should be withdrawn.

Moreover, Heimsoth et al. does not disclose or even suggest, at least an intermediate machine configured to store a received stream, and send the stream to a receiving machine in response to the occurrence of an event, and a receiving machine that reconstructs the object by accessing program code identified in the stream. Therefore, the Examiner's position that the reference anticipates claim 42 is unsupported by the prior art and should be withdrawn.

Because the Examiner's assertion that Heimsoth et al. teaches each and every recitation of claims 21-26, 30-35, and 39-42 is incorrect, the rejection of these claims under 35 U.S.C. § 102(e) is unsupported by the prior art and should be withdrawn and the claims allowed.

b. The Examiner has not addressed all of the recitations of claims 23-26, 32-35, and 40-42

Applicants pointed out in the response filed September 5, 2003, that the Examiner failed to address all of the features of claims 23-26, 32-35, and 40-42. *See Response filed September 5, 2003, pages 20-21 and 23-25.* In response, the Examiner again has neglected to address the recitations of these claims in support of their rejection under 35 U.S.C. § 102(e). This is improper, and thus the rejection of these claims should be withdrawn or the Examiner provide a non-final Office Action properly setting forth the evidence to support the rejection.

For instance, the Examiner did not address all of the steps recited in claims 23 and 40, including, in particular, the step of "deferring reconstruction of an object by a second RPC mechanism until requested to do so by a program that uses the second RPC mechanism." Because these features are not recited in claims 21 and 22, the

Examiner's position that the rejection of these claims under 35 U.S.C. § 102(e) apply to the recitations of claims 23 and 40 is improper and should be withdrawn.

Additionally, the Examiner did not address all of the steps recited in claim 25, including the step of, "deferring reconstruction of an object by a first RPC mechanism until the stream is returned from the second RPC mechanism to the first RPC mechanism in response to the occurrence of an event." In the Final Office Action, the Examiner recites the recitations of claim 25 and cites to the same portions of Heimsoth et al. that is relied upon for rejecting claim 21. Contrary to the Examiner's assertions, these citations do not teach at least deferring reconstruction of an object by a first RPC mechanism until the stream is returned from the second RPC mechanism to the first RPC mechanism in response to the occurrence of an event. Because the Examiner has not properly addressed the recitations of claim 25, the rejection of this claim is improper and should be withdrawn.

Also, the Examiner did not address all of the steps recited in claim 32, including, for example, the step of, "deferring reconstruction of an object by a second RPC mechanism until requested to do so by a program that uses the second RPC mechanism." Because these features are not recited in claims 21 and 22, the Examiner's position that the rejection of these claims apply to the recitations of claim 32 is improper and should be withdrawn.

Additionally, the Examiner did not address all of the steps recited in claim 34, including, for example, the step of "deferring reconstruction of an object by a first RPC mechanism until the stream is returned from the second RPC mechanism to the first RPC mechanism in response to the occurrence of an event." Because these features

are not recited in claims 21 and 22, the Examiner's position that the rejection of these claims apply to the recitations of claim 34 is improper and should be withdrawn.

Further, the Examiner did not address all of the recitations of claim 41, such as an apparatus for providing notification of an event in a distributed system including, among other things, a transmitting machine, an event generator, and an event listener that is configured to reconstruct an object by accessing program code identified in a stream. Because these features are not recited in claims 21 and 22, the Examiner's position that the rejection of these claims apply to the recitations of claim 41 is improper and should be withdrawn.

Lastly, the Examiner did not address all of the recitations of claim 42, including an apparatus for deferring reconstruction of an object in a distributed system including, among other things, a transmitting machine and an intermediate machine configured to store a received stream, and send the stream to a receiving machine in response to the occurrence of an event. Because these features are not recited in claims 21 and 22, the Examiner's position that the rejection of these claims apply to the recitations of claim 42 is improper and should be withdrawn.

VI. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request the reconsideration and reexamination of this application and the timely allowance of claims 21-26, 30-35, and 39-42.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.

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By: _____

Joseph E. Palys
Reg. No. 46,508